

(5)

Central Administrative Tribunal  
Principal Bench

OA 207/2002

New Delhi, this the 12th day of November, 2002

Hon'ble Shri Kuldip Singh, Member (J)  
Hon'ble Shri M.P.Singh, Member (A)

Karam Singh (No. 1476/W)  
PIs No. 28903021  
R/o Bhasara, P.S.Gharaunda  
Distt. - Karnal, Haryana  
Presently posted at:  
West Distt. Lines  
Delhi Police  
New Delhi.

... Applicant

(By Shri Anil Singal, Advocate)

Versus

1. Commissioner of Police  
Police Headquarters  
IP Estate, New Delhi.
2. Jt. Commissioner of Police  
Southern Range, PHQ  
IP Estate, New Delhi..
3. Dy. Commissioner of Police  
(West Distt)  
P.S.Rajouri Garden  
New Delhi.

... Respondents

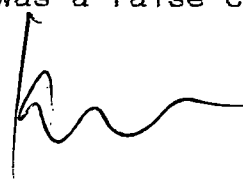
(By Ms. Sumedha Sharma, Advocate)

Order (Oral)

By Shri Kuldip Singh, Member (J)

Heard both the counsel.

2. The facts of the case are that the applicant was posted at PS, Janakpuri and was going by Train No. 303 UP from Delhi to Kalka. He was arrested at Sonapat Railway Station on 17.1.1998 as he was found in possession of 38 packets of illicit liquor and a case vide FIR No. 12/98 under section 61/1/14 Excise Act, Police Station, GRP, Sonapat (Haryana) was registered against him. Though the applicant says that it was a false case but still a



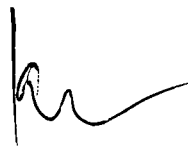
Departmental inquiry on the basis of these allegations was held and inquiry officer also found that because of certain statements which has been made by the witnesses, there was some doubt about recovery of illicit liquor from C.O., therefore, inquiry officer exonerated him. However, the disciplinary authority after going through the record disagreed with the findings of inquiry officer and recorded a disagreement note as per Annexure A.3. The Annexure A.3 was served upon the applicant and he was asked to give his explanations. So the applicant was given due opportunity to make representation against the dissent note. The applicant gave his explanation but that was not accepted by the disciplinary authority. Disciplinary authority vide impugned order held as charge proved against the applicant and punished the applicant by awarding a punishment of forfeiture of 3 years service permanently entailing reduction in pay from Rs. 3425/- p.m. to Rs. 3200/- p.m. and treating the period of suspension (17.1.1998 to 1999) as the period not spent on duty vide order No. 772/87/P(W)(II) dated 16.1.2000 for all intents and purposes. The applicant was aggrieved, so he approached the appellate authority by filing an appeal, but the appellate authority has rejected his appeal.

3. The applicant has assailed these orders on the ground that dissent note recorded by the disciplinary authority has not been recorded in a tentative manner rather the disciplinary authority with pre-determined mind had arrived at the conclusion that the applicant was guilty. But on the perusal of dissent note Annexure A.3, we found




that the observations of the disciplinary authority is simple to the extent that the doubt in the evidence expressed by the inquiry officer were not material, therefore, for that reason the disciplinary authority disagreed with findings of the Inquiry Officers and while sending the dissent note alongwith inquiry officer report the disciplinary authority provided an opportunity to the applicant mentioning that "the disciplinary authority will take a suitable decision only after considering the report and the representation made by the applicant". Thus we find that disciplinary authority was not at all in his dissent note categorically held that the charges levelled against applicant by the disciplinary authority are proved at the same time, he has to assign some reasons with dissent note as to why he disagree with I.O. So we find no fault in the dissent note.

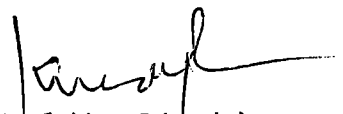
4. The counsel for the applicant has stated while awarding punishment as per Annexure A.4, the respondents had also taken note of the fact that in the OR the applicant had made admission to the effect that he had committed a mistake that he was in possession of liquor and pleaded for mercy. Learned counsel for the applicant states that the disciplinary authority could have relied upon the evidence or the admisssion made by the applicant before him while he was being heard in the orderly room. However, in our view this contention has no merits. The disciplinary authority could take note of his admission too.



5. The applicant has also pleaded since he has been acquitted by the criminal court, he could not have been exonerated in the departmental inquiry proceedings but the record reveals that the applicant has been acquitted by the state of Haryana did not proceed because by virtue of lifting of prohibition in Haryana. The cases were withdrawn from the court and the applicant was acquitted only because of the withdrawal of cases by the State. There was no findings recorded on the merit in the criminal court whether the case against the applicant was proved or not so this contention of the applicant has no merit.

6. In our view, there is no basis for us to interfere. We find that a fair opportunity had been granted to the applicant and no faults could be found in the order passed by the disciplinary authority as well as that of appellate authority. So, in our view, order passed by the disciplinary authority as well as appellate authority was right and applicant is unsuccessful to assail these orders. Therefore, the OA is accordingly dismissed. No costs.

  
 (M.P. Singh)  
 Member (A)

  
 (Kuldip Singh)  
 Member (J)

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